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[Additional counsel appear on signature  
page]

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*Attorneys for Defendant and  
Counterclaimant Apple Inc.*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION**

EPIC GAMES, INC.,  
  
*Plaintiff, Counter-defendant,*  
  
vs.  
  
APPLE INC.,  
  
*Defendant, Counterclaimant.*

No. 4:20-CV-05640-YGR-TSH

**STIPULATION AND [PROPOSED]  
ORDER REGARDING REBUTTAL  
EXPERT DIRECT TESTIMONY**

Hon. Yvonne Gonzalez Rogers

1 WHEREAS, on March 30, 2021 the Court issued its Pretrial Order No. 3 (Dkt. 389);

2 WHEREAS, in Pretrial Order No. 3, the Court directed that “Epic Games Inc. shall serve,  
3 but not file, its written direct testimony on Apple by **April 20, 2021**. Apple shall serve, but not  
4 file, its written direct testimony on Epic Games by **April 23, 2021**. The parties shall then file and  
5 serve the final written direct testimony by **Tuesday, April 27, 2021**”;

6 WHEREAS, in Pretrial Order No. 3, the Court directed that “[e]ach written testimony  
7 submission shall bear the Exhibit marking ‘Ex. Expert [insert number]’ and repeat with  
8 consecutive numbering”;

9 WHEREAS, in Pretrial Order No. 3, the Court directed the parties to “file one joint  
10 stipulation requesting that the Court admit the exhibits for all written testimony so that they will  
11 become part of the trial record. The stipulation shall be submitted with the written testimony  
12 submissions. Further the list shall include the exhibit number, the name of the witness, the word  
13 count and the summation of the collective word counts”;

14 WHEREAS, Epic Games Inc. served the written direct testimony of its experts on  
15 April 20, 2021, and Apple served the written direct testimony on of its experts on April 23, 2021;

16 WHEREAS, Epic Games Inc. served the written direct testimony of its rebuttal experts on  
17 April 27, 2021, but Apple did not have time to review that rebuttal testimony before the parties’  
18 April 27, 2021 stipulation was due to be filed;

19 THEREFORE, IT IS HEREBY STIPULATED AND AGREED by the parties through  
20 their respective counsel that, subject to the approval of the Court:

21 (1) the written direct testimony identified in the table below (Exs. Expert 13–16,  
22 inclusive) is admitted, with the exception of the paragraphs specifically identified as not stipulated  
23 to; and

24 (2) the parties will address their positions regarding any paragraphs specifically  
25 identified as not stipulated to in the statements to be filed pursuant to the schedule set forth in  
26 Paragraph (3) of the stipulation, dated April 27, 2021, filed at ECF No. 510.

| Witness   | Exhibit No.   | Paragraphs Not Stipulated To                  | Word Count    |
|---|---------------|---|---------------|
| <b>Epic's Rebuttal Written Direct Testimony</b> |               |   |               |
| Michael I. Cragg, Ph.D.                         | Ex. Expert 13 | ¶¶ 26, 38–39, 55–56, 58–59, 66–68, 72, 97–104 | 14,135        |
| Dr. Nancy A. Mathiowetz                         | Ex. Expert 14 | N/A   | 4,782         |
| Dr. Wenke Lee                                   | Ex. Expert 15 | ¶¶ 19, 76–77, 80, 103–04                      | 10,965        |
| Dr. David S. Evans                              | Ex. Expert 16 | ¶¶ 39, 48–50                                  | 10,517        |
| <b>Rebuttal Total:</b>                          |               |   | 40,399        |
| <b>Epic Games, Inc. Total:</b>                  |               |   | <b>99,859</b> |

1 **IT IS SO STIPULATED, THROUGH COUNSEL OF RECORD.**

2  
3 Dated: April 28, 2021

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Dated: April 28, 2021

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1 **PURSUANT TO STIPULATION AND GOOD CAUSE APPEARING, IT IS SO**  
2 **ORDERED.**

3  
4 DATED: \_\_\_\_\_

\_\_\_\_\_  
5 HON. YVONNE GONZALEZ ROGERS  
6 United States District Judge  
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**ECF SIGNATURE ATTESTATION**

In accordance with Civil Local Rule 5-1, the filer of this document hereby attests that the concurrence of the filing of this document has been obtained from the other signatory hereto.

Dated: April 28, 2021

CRAVATH, SWAINE & MOORE LLP

By: /s/ Gary A. Bornstein

Gary A. Bornstein

*Attorneys for Plaintiff and  
Counter-defendant Epic Games, Inc.*